



STEVEN L. BESHEAR
Governor

FINANCE AND ADMINISTRATION CABINET
DEPARTMENT OF REVENUE

JONATHAN MILLER
Secretary

501 HIGH STREET
FRANKFORT, KENTUCKY 40620
Phone (502) 564-3226
Fax (502) 564-3875
www.kentucky.gov

THOMAS B. MILLER
Commissioner

In the matter of:

██████████, INC.

Contact: ██████████, Inc.

FINAL RULING NO. 2008-41
July 10, 2008

Tangible Personal Property Tax Assessment
January 1, 2000 through January 1, 2003

FINAL RULING

The Kentucky Department of Revenue currently has outstanding tangible personal property tax assessments against ██████████, Inc. (██████████) totaling \$██████████ (plus applicable interest and penalties) based upon an audit for the periods of January 1, 2000 through January 1, 2003. A breakdown of the assessments is shown in the chart below:

Tax Year	Tax Due	Interest As of 07/10/2008	Penalty As of 07/10/2008	Total Due As of 07/10/2008
January 1, 2000	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2001	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2002	\$██████████	\$██████████	\$██████████	\$██████████
January 1, 2003	\$██████████	\$██████████	\$██████████	\$██████████
TOTALS	\$██████████	\$██████████	\$██████████	\$██████████

██████████ manufactures and sells ██████████ products for coal and hard rock producers. They have one location in ██████████, Kentucky.

██████████ protested the audit assessments. However, to date the specific items the taxpayer disagrees with have not been established. The Department has requested the basis of the protest and granted three extensions to provide this information. To date the only information provided by ██████████ has been a faxed copy of an unsigned 2000 Tangible Property Tax Return.

The Department has not received any additional information nor has a payment been remitted for the outstanding liability.

The Kentucky courts have held that KRS 131.110(1) imposes upon a taxpayer protesting an assessment or a refund denial a legal duty to provide the Department with “something more substantial than mere denials of tax liability.” Eagle Machine Co., Inc. v. Commonwealth ex rel. Gillis, 698 S.W.2d 528, 530 (Ky. App.1985). In order to make a valid protest, a taxpayer must “provide financial statements, records or some other documentation that would allow the Revenue Department some basis for reconsideration.” Id. at 529.

The courts have held that this statutory provision is “mandatory in nature” and that failure to submit documentation as it requires will result in the taxpayer’s loss of the right to further review of the assessment in question. Scotty’s Construction Co. v. Revenue Cabinet, 779 S.W.2d 234 (Ky. App. 1989). In both Scotty’s Construction and Eagle Machine Co., the taxpayers failed to provide any significant information in support of their denials of tax liability, despite being given ample opportunity to do so. The same is true here.

Therefore, the outstanding tangible personal property tax assessments totaling \$██████████ (plus applicable interest, penalties and fees) are deemed legitimate liabilities of ██████████ Corporation and are due to the Commonwealth of Kentucky.

This letter is the final ruling of the Kentucky Department of Revenue.

APPEAL

You may appeal this final ruling to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.110, KRS 131.340-131.365, 103 KAR 1:010 and 802 KAR 1:010. If you decide to appeal this final ruling, your petition of appeal must be filed at the principal office of the Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, Kentucky 40602-2120, within thirty (30) days from the date of this final ruling. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the petition of appeal must:

1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. Contain the petitioner’s or appellant’s position as to the law and facts; and
4. Include a copy of this final ruling with each copy of the petition of appeal

The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

Proceedings before the Kentucky Board of Tax Appeals are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are

held by the Board concerning the tax appeals before it, with all testimony and proceedings officially reported. Legal representation of parties to appeals before the Board is governed by the following rules set forth in Section 2 (3) of 802 KAR 1:010:

1. An individual may represent himself in hearings before the Board;
2. An individual who is not an attorney may not represent any other individual, corporation, trust, estate, or partnership before the Board; and
3. An attorney who is not licensed to practice in Kentucky may practice before the Board if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,
Finance and Administration Cabinet



Jason Snyder
Executive Director
Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED